

REMARKS

Claims 11, 26, and 41 have been amended. Claims 1-10, 22-25, and 37-40 have been cancelled without prejudice. Claims 11-21, 26-36, 41, and 42 are currently pending in the application.

Claim 41 was rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 41 has been amended and Applicant requests the withdrawal of this rejection.

Claims 5 and 8 are rejected under 35 U.S.C. §102(e) as being anticipated by Sakurai (US Patent 6,784,928). Claims 6 and 9 are rejected under 35 U.S.C. §103(a) as being unpatentable over Sakurai (US Patent 6,784,928) in view of Nam (US Patent 7,408,443). Claims 7 and 10 are rejected under 35 U.S.C. §103(a) as being unpatentable over Sakurai (US Patent 6,784,928) in view of Nam (US Patent 7,408,443) and further in view of Fossum et al. (US Patent 5,949,483). These rejections are moot in light of the cancellation of claims 5-10.

Claims 11-21 and 26-36 are rejected under 35 U.S.C. §103(a) as being unpatentable over Berger et al. (US Patent 4,453,177; hereinafter “Berger”) in view of Fossum et al. (US Pub. 2003/0117520; hereinafter ‘Fossum’). Claims 41 and 42 are rejected under 35 U.S.C. §102(e) as being anticipated by Fossum. Applicant requests the reconsideration of these claims.

102(e) Rejection

Fossum teaches capturing a pair of images. One image is captured with a short exposure period and the other image with a long exposure period (paragraphs [0015], [0018]). Each exposure includes different kinds of information about the scene being imaged (paragraph [0014]). The short exposure image can be read out non-destructively from the pixels at a first time while the long exposure image is read out of the pixels at a second, later time. The long exposure image has a longer integration time compared to the short exposure image (paragraph [0021]).

In order for a reference to anticipate an invention, each and every element of the claimed invention must be found in a single reference. “The identical invention must be shown in as complete detail as is contained in the ... claim.” Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). “The elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test, i.e., identity of terminology is not required.” In re Bond, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990). See also MPEP § 2131.

Independent claim 41, as amended, recites “capturing a single image using a single integration period for all of the light receiving elements in at least one row” and “after the single integration period, reading out two or more equivalent samples of the same signal for each light receiving element in the at least one row.” Fossum does not disclose capturing a single image and reading out two or more equivalent samples of the same signal. Instead, Fossum captures two images each having a different integration period. The two images do not include equivalent samples of the same signal. Therefore, for at least the following reason, Fossum does not anticipate Applicant’s independent claim 41.

“Claims in dependent form shall be construed to include all the limitations of the claim incorporated by reference into the dependent claim.” 37 CFR § 1.75. Claim 42 depends from and includes all of the limitations of independent claim 41. For at least the reasons discussed above, Fossum does not anticipate independent claim 41. Accordingly, dependent claim 42 is also not anticipated by Fossum.

103 Rejection

Independent claims 11 and 26, as amended, recite “means for reading out two or more equivalent samples of a same signal from each light receiving element in at least one row, wherein the same signal is produced after a single integration period for all of the light receiving elements in the at least one row.” Applicant’s arguments with respect to Fossum apply to this rejection as well. Fossum does not disclose or suggest reading out two or more equivalent samples

of the same signal, where a single integration period is used to produce the same signal.

And Berger does not make up for the deficiencies of Fossum. Nothing found in Berger teaches or suggests “means for reading out two or more equivalent samples of a same signal from each light receiving element in at least one row, wherein the same signal is produced after a single integration period for all of the light receiving elements in the at least one row.” Therefore, the combination of Berger and Fossum does not render Applicant’s independent claims 11 and 26 obvious because the combination does not teach or suggest all of the claim elements and limitations.

“If an independent claim is not rendered obvious by prior art, then any claim depending from the independent claim is not obvious.” In re Fine, 5 USPQ2d 1596 (Fed. Cir. 1988) (see also M.P.E.P. § 2143.03). Claims 12-21 depend from independent claim 11, while claims 27-36 depend from independent claim 26. Since the combination of Berger and Fossum does not render claims 11 and 26 obvious, dependent claims 12-21 and 27-36 are also not obvious in view of Berger and Fossum.

In view of the foregoing it is respectfully submitted that the claims in their present form are in condition for allowance and such action is respectfully requested.

Respectfully submitted,



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